

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAEF LAWSON,
Plaintiff,
v.
GRUBHUB, INC., et al.,
Defendants.

Case No. 15-cv-05128-JSC

**ORDER RE: PLAINTIFF'S STANDING
TO PURSUE PAGA PENALTIES
AFTER EFFECTIVE DATE OF
PROPOSITION 22**

Re: Dkt. Nos. 369, 371

Raef Lawson brings a representative PAGA claim alleging Grubhub unlawfully classified its food delivery drivers as independent contractors and as a result failed to reimburse them for necessary expenses, pay them minimum wage, and pay them overtime wages. (Dkt. No. 41 ¶ 33.)¹ Following oral argument on January 31, 2024, the Court stayed Lawson's overtime and expense reimbursement claims pending final adjudication of the remaining minimum wage claim because Lawson lacks Article III standing to pursue PAGA penalties for violations he did not personally suffer. (Dkt. No. 367.) On the issue of whether Lawson lacks Article III standing to pursue penalties for minimum wage violations, if any, that occurred after Proposition 22 took effect on December 16, 2020, the Court ordered supplemental briefing. (*Id.* at 2, 16.) Before the Court is the parties' supplemental briefing. (Dkt. Nos. 369, 371.)

Proposition 22 provides app-based drivers are independent contractors if certain conditions are met. Cal. Bus. & Prof. § 7451. So, after December 16, 2020, the criteria for classifying app-based drivers changed. This Court has not adjudicated whether any post-Proposition 22 Grubhub driver was misclassified. Nonetheless, Lawson seeks to pursue PAGA penalties on behalf of

¹ Record citations are to material in the Electronic Case File ("ECF"); pinpoint citations are to the ECF-generated page numbers at the top of the documents.

1 Grubhub drivers classified as independent contractors under Proposition 22 despite his never
2 having driven for Grubhub under Proposition 22's scheme.

3 A litigant who challenges a statute inapplicable to him lacks constitutional standing. *See,*
4 *e.g., Summers v. Earth Island Inst.*, 555 U.S. 488, 493-95 (2009) (ruling no constitutional standing
5 when the challenged regulations "neither require nor forbid any action on the part of respondents"
6 and the alleged injury "was not tied to application of the challenged regulations."); *Clements v.*
7 *Fashing*, 457 U.S. 957, 966 n.3 (1982) ("A litigant has standing to challenge the constitutionality
8 of a statute only insofar as it adversely affects his own rights."); *Warth v. Seldin*, 422 U.S. 490,
9 508 (1975) ("[A] plaintiff who seeks to challenge exclusionary zoning practices must allege
10 specific, concrete facts demonstrating that the challenged practices harm him, and that he
11 personally would benefit in a tangible way from the court's intervention."); *Get Outdoors II, LLC*
12 *v. City of San Diego, Cal.*, 506 F.3d 886, 892 (9th Cir. 2007) ("[A plaintiff] has standing to
13 challenge only those provisions that applied to it."). Lawson is not challenging the
14 constitutionality of Proposition 22. However, Lawson must "allege (and eventually prove)"
15 Grubhub failed to comply with Proposition 22's requirements to recover PAGA penalties for any
16 post-Proposition 22 minimum wage violations. *James v. Uber Techs. Inc.*, 338 F.R.D. 123, 145
17 (N.D. Cal. 2021). But because Lawson did not drive for Grubhub on or after December 16, 2020,
18 he lacks a personal stake in the adjudication of Grubhub's compliance with Proposition 22.
19 *TransUnion LLC*, 141 S. Ct at 2203; *see also Raines v. Byrd*, 521 U.S. 811, 819 (1997) ("We have
20 consistently stressed that a plaintiff's complaint must establish that he has a 'personal stake' in the
21 alleged dispute, and that the alleged injury suffered is particularized as to him."). So, Lawson
22 lacks Article III standing to argue Grubhub drivers are employees under Proposition 22's scheme.

23 Lawson argues he still has constitutional standing to pursue PAGA penalties for minimum
24 wage violations after December 16, 2020, because "Proposition 22 did not alter the standard for
25 determining whether a worker is an employee or an independent contractor" and instead "simply
26 established an affirmative defense to the application of the ABC test[.]" (Dkt. No. 369 at 5.) Not
27 so. Proposition 22 provides "[n]otwithstanding any other provision of law . . . an app-based driver
28 is an independent contractor and not an employee or agent with respect to the app-based driver's

relationship with a network company” subject to four conditions. Cal. Bus. & Prof. Code § 7451. Proposition 22 does not place the burden on “network compan[ies]” to prove compliance with Proposition 22. *Id.* “[W]here the plain text of the statute is silent as to which party carries the burden of proof, as is the case here, [the Ninth Circuit] begin[s] with the ordinary default rule that plaintiffs bear the risk of failing to prove their claims.” *Tourgeman v. Nelson & Kennard*, 900 F.3d 1105, 1109 (9th Cir. 2018) (cleaned up). So, to pursue PAGA penalties for minimum wage violations after December 16, 2020, Lawson must show Grubhub violates Proposition 22. *James*, 338 F.R.D. at 145. As determined above, Lawson lacks Article III standing to adjudicate whether Grubhub violates Proposition 22 because Lawson did not drive from Grubhub on or after December 16, 2020. The PAGA period thus spans December 13, 2014, to December 16, 2020.

Even apart from Lawson’s lack of Article III standing, district courts possess “inherent powers that are “governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Dietz v. Bouldin*, 579 U.S. 40, 45 (2016) (cleaned up). The Court’s exercise of its inherent power 1) “must be a reasonable response to the problems and needs confronting the court’s fair administration of justice” and 2) must not “be contrary to any express grant of or limitation on the district court’s power contained in a rule or statute.” *Id.* at 45-46 (cleaned up). Though trial courts lack inherent authority to dismiss or strike a PAGA claim on manageability grounds, trial courts may “limit[] the types of evidence a plaintiff may present or us[e] other tools to assure that a PAGA claim can be effectively tried.” *Estrada v. Royalty Carpet Mills, Inc.*, No. S274340, 2024 WL 188863, at *18 (Cal. Jan. 18, 2024); *see also Woodworth v. Loma Linda Univ. Med. Ctr.*, 93 Cal. App. 5th 1038, 1047 (2023), *reh’g denied* (Aug. 17, 2023) (“When faced with unwieldy PAGA claims, trial courts may limit the scope of the claims or the evidence to be presented at trial but may not prohibit PAGA plaintiffs from presenting their claims entirely.”).

As the Court previously noted:

Even aside from standing, December 16, 2020 is a reasonable bookend to Lawson’s PAGA penalty period because the Court can employ a consistent analysis to classify app-based drivers from December 13, 2014, to December 16, 2020, for the purposes of Lawson’s minimum wage claim. Extending the PAGA penalty period

beyond December 16, 2020, would require evaluation of Grubhub's compliance with Proposition 22 and thus a whole new misclassification trial. By limiting the PAGA period through December 16, 2020, the Court avoids this issue altogether without contradicting any express rule or statute. The effective date of Proposition 22 marks a change in work circumstances. This is an appropriate and administrable limit on the evidence Lawson may introduce at trial to prove the alleged minimum wage violations suffered by other aggrieved employees.

(Dkt. No. 367 at 14-15 (internal citations omitted).)

Finally, Lawson argues "cutting off Plaintiff's ability to seek PAGA penalties on behalf of aggrieved employees as of December 16, 2020, would be premature, given that the California Supreme Court is now deciding whether Proposition 22 is constitutional." (Dkt. No. 369 at 6.) The Court may reconsider its limitation of the PAGA period based on the California Supreme Court's forthcoming decision in *Castellanos v. State of California*, No. S279622.

CONCLUSION

For the reasons stated, the period for which Lawson may seek to recover PAGA penalties for minimum wage violations is December 3, 2014, through December 16, 2020, the day Proposition 22 took effect.

This Order disposes of Docket Nos. 369 and 371.

IT IS SO ORDERED.

Dated: July 23, 2024


JACQUELINE SCOTT CORLEY
United States District Judge